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Attached is the daily news report for March 22.

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## BUREAU OF LAND MANAGEMENT

### DAILY NEWS REPORT - UTAH

#### UTAH – TOP STORIES – MARCH 22, 2017

##### 1. Utah producers could help Trump create jobs

*Utah Policy, March 21 | Press Release*

The State of Utah could experience an increase of 1,027 jobs from a potential 25 percent increase in oil and natural gas production, according to John Dunham & Associates. A shift to pro-development policies by the Trump Administration could bring the job total from the upstream oil and natural gas sector in Utah to 13,634 and 196,421 nationwide.

##### 2. Push to undo Obama's national-monument designations hits an obstacle: The law

*McClatchy DC, March 21 | Stuart Leavenworth*

BLANDING, UTAH – Powerful Republican congressmen and governors are pressing President Donald Trump to take an unprecedented step: Reverse his predecessor's creation of several national monuments under a law that dates back to Theodore Roosevelt.

##### 3. 45 wildfires in 10 years; BLM conducts invasive tree removal

*St George News, March 21 | Julie Applegate*

CEDAR CITY – The Bureau of Land Management will begin removing pinyon and juniper trees in the Three Peaks Recreation Area starting April 1 to reduce the risk of wildfires.

##### 4. Utah reimbursed for Gold King Mine spill's initial costs; lawsuit weighed

*The Deseret News, March 21 | Amy Joi O'Donoghue*

SALT LAKE CITY — State environmental regulators said Tuesday they have been fully compensated for their initial costs incurred during the response to the 2015 Gold King Mine spill, but a lawsuit against the federal government remains under consideration.

##### 5. Bears Ears is a national monument now. But it will take a fight to save it

*The Salt Lake Tribune, March 22 | Darryl Fears, The Washington Post*

WASHINGTON — As he prepared to travel west, Interior Department Secretary Ryan Zinke got a letter from a coalition of tribes in Utah on Friday.



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### DAILY NEWS REPORT - UTAH

#### E&E/NATIONAL NEWS – TOP STORIES

1. **Nevada lawmakers press BLM for public lands answers**

*Reno Gazette-Journal, March 21 | Benjamin Spillman*

Nevada lawmakers sought answers from a high ranking public land manager on everything from wild horses to wilderness study areas.

2. **Trump Gets Bipartisan Pushback on Energy, Interior Budget Cuts**

*The Morning Consult, March 21 | Jack Fitzpatrick*

Lawmakers in both parties are complaining about the energy and environmental agenda laid out in the Trump administration's budget blueprint last week.

3. **Judge issues guilty verdicts on 9 of 11 misdemeanor charges against four Oregon standoff defendants**

*The Oregonian/OregonLive, March 21 | Maxine Bernstein*

A federal judge on Tuesday found four men guilty of trespassing and other misdemeanor charges for their roles in the occupation of the Malheur National Wildlife Refuge last winter.

4. **Interior Department Bureau Gets Good Review**

*FEDweek, March 22 | Press Release*

The creation in 2011 of a separate Bureau of Safety and Environmental Enforcement in the Interior Department "significantly strengthened the federal government's ability to effectively oversee industry" related to outer continental shelf resources, a study has said.

5. **PUBLIC LANDS: Senators push public-private partnerships for infrastructure**

*E & E News, March 22 | Kellie Lunney*

Congressional funding alone will not be enough to upgrade aging infrastructure or tackle a massive maintenance backlog on the nation's federal lands, a top Senate Republican said yesterday.



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6. **REGULATIONS: Senate GOP still hunting votes to block methane rule**

*E & E News, March 22 | Geof Koss and Kellie Lunney*

Senate Republicans signaled yesterday that they're still short of the necessary votes for a Congressional Review Act resolution targeting the Bureau of Land Management's methane rule.

7. **OFFSHORE DRILLING: Trump admin may tinker with 5-year Obama plan — official**

*E & E News, March 22 | Emily Yehle*

The Trump administration is considering changes to the five-year oil and gas leasing plan finalized under President Obama, according to a top Interior Department official.

8. **MINING: GOP, industry press for streamlined permitting**

*E & E News, March 22 | Dylan Brown*

House Republicans angled at a Natural Resources subcommittee hearing yesterday to get mining on the list for swift permitting as part of the Trump administration's \$1 trillion infrastructure initiative.

9. **TEXAS: Most methane in groundwater is not a result of fracking — study**

*E & E News, March 22 | Mike Soraghan*

A broad review of Texas water data has found that oil and gas drilling is not the source of most methane found in Texas aquifers.

10. **METHANE: Texas joins battle over BLM rule**

*E & E News, March 22 | Ellen M. Gilmer*

A high-stakes legal fight over an Obama-era rule for methane emissions from oil and gas development on public lands may have a new player: Texas.



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11. **SAGE GROUSE: Carefully timed grazing can benefit birds — study**

*E & E News, March 22 | Scott Streater*

Altering the timing of livestock grazing within sagebrush rangelands could help restore sage grouse populations across the West, according to a new study that ranching advocates say proves well-managed grazing activity is good for grouse.

12. **POLITICS: Greens write playbook for 'environmental Armageddon'**

*E & E News, March 22 | Robin Bravender*

Major environmental groups have a strategy for countering President Trump: all-out war.



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#### UTAH – FULL STORY

##### 1. Utah producers could help Trump create jobs

*Utah Policy, March 21 | Press Release*

The State of Utah could experience an increase of 1,027 jobs from a potential 25 percent increase in oil and natural gas production, according to John Dunham & Associates. A shift to pro-development policies by the Trump Administration could bring the job total from the upstream oil and natural gas sector in Utah to 13,634 and 196,421 nationwide.

“The Trump Administration and Congress are addressing overreaching regulations from the Obama Administration, which means we can get on with responsible development of American oil and natural gas,” said Kathleen Sgamma, president of the Alliance. “Pres. Trump has clearly signaled a shift away from punishing the industry to actually encouraging domestic production. As a result, the western oil and natural gas industry could help him create jobs and economic opportunity across the nation.

“Correcting past policies that stifled development means that western producers could increase production by as much as 25 percent. Simply by moving forward with [environmental analyses for projects](#) held up over the past eight years could unleash new development. Rolling back redundant regulations is also necessary. For instance, the Senate should finally take a vote on [overturning the Bureau of Land Management’s \(BLM\) venting and flaring rule](#) already passed by the House.

“Western Energy Alliance has many other ideas for reinvigorating energy development on non-park, non-wilderness public lands while still protecting the environment. We look forward to working with Interior Secretary Zinke on policies such as [increasing certainty in the leasing process](#), ensuring BLM field offices follow the law when it comes to [permitting applications](#), and working cooperatively with states on [sage grouse protection](#).”

As of October 2016, western upstream producers supported 177,058 jobs across the country, according to the Western Oil and Natural Gas Employs America economic model developed by John Dunham and Associates. The model quantifies the impact from just the oil and natural gas exploration and production (upstream) sector in the western states of Arizona, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming.



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To see where western oil and natural gas companies are creating jobs and economic growth, visit [westernenergyalliance.org/EmploysAmerica](http://westernenergyalliance.org/EmploysAmerica).

Western Energy Alliance is a non-profit trade association representing more than 300 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. More information on Western Energy Alliance and its members is available at [www.westernenergyalliance.org](http://www.westernenergyalliance.org).

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#### **2. Push to undo Obama's national-monument designations hits an obstacle: The law**

*McClatchy DC, March 21 | Stuart Leavenworth*

BLANDING, UTAH – Powerful Republican congressmen and governors are pressing President Donald Trump to take an unprecedented step: Reverse his predecessor's creation of several national monuments under a law that dates back to Theodore Roosevelt.

No president has ever attempted such a reversal, and legal experts doubt it could succeed.

"If they go down that road, it is a very, very difficult path," said John Ruple, an expert on public lands at the University of Utah College of Law in Salt Lake City.

In Utah, Gov. Gary Herbert and key members of the GOP delegation – including Jason Chaffetz, who heads the House Oversight Committee – want Trump to roll back the 1.35-million-acre Bears Ears National Monument, which Barack Obama created in late December. GOP leaders in Maine are pressing Trump to reverse another Obama conservation designation – the Katahdin Woods and Waters National Monument, created from 87,500 acres of donated forestland.

White House officials are reviewing the requests and haven't yet signaled whether Trump will challenge Obama's use of the [Antiquities Act](#), which Roosevelt signed into law in 1906.

Yet Trump supporters continue to lobby the president to at least scale back what they call Obama's "midnight monuments." Herbert and others say they are working to quickly bring Interior Secretary Ryan Zinke – Trump's point person on public lands – to Utah, so he can help champion the cause.



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“What is a concern for us is some president who with a stroke of a pen as he goes out the door . . . runs roughshod over the people of Utah,” Herbert said in a recent interview with McClatchy.

“We will work to repeal this top-down decision and replace it with one that garners local support,” said Chaffetz, whose district includes San Juan County, where Bears Ears rises from the Colorado Plateau.

An expanse of federally owned forests and red-rock canyons, the Bears Ears monument is larger than the state of Delaware. Considered sacred by local tribes, the area was occupied by Ancient Puebloans, who left behind rock art and pottery now at risk of looting. The protected status of the monument still allows livestock ranchers to lease grazing land, but it restricts other activities – including new mining, oil and gas development, and road construction.

Lawmakers in Utah and other states have fumed about previous monument designations. President Bill Clinton and his interior secretary, Bruce Babbitt, angered some Utah politicians by creating the 1.9-million-acre Grand Staircase-Escalante National Monument in 1996.

Several Utah counties sued to overturn the designation, but in 2004 a federal judge dismissed the lawsuit, ruling that Clinton had been within his legal authority in making the designation, even at 1.9 million acres.

In his 47-page ruling, U.S. District Judge Dee Benson called the Antiquities Act a “proper constitutional grant of authority to the president.” He added that, under the 1906 law, courts cannot review whether presidents have abused their discretion in establishing monument boundaries.

Ruple, the Utah law professor, said he saw little legal grounds for Trump to overturn a designation made by a predecessor. “The Antiquities Act doesn’t say anything about undoing a monument,” he said. “It only talks about creating national monuments.”

Under the law, presidents do have the authority to shrink the size of a monument, and some have used it, although mostly for minor adjustments. Two months before he was assassinated, President John F. Kennedy changed the boundaries of the Bandelier National Monument in New Mexico, adding about 3,000 acres and removing another 4,000, at the behest of the neighboring Los Alamos National Laboratory.





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If Trump sought to shrink Bears Ears, he'd have to justify the decision by claiming, for instance, that the monument's boundaries were larger than needed to protect "objects," or antiquities. Conservation groups say they are already gearing up to respond.

"We will look to fight any kind of reduction in any venue we can, whether it is the court of law, the court of public opinion, Congress . . . whatever it takes," said Nada Culver, a senior counsel with the Wilderness Society's office in Denver.

Tribal leaders, who had lobbied Obama for two years to designate the monument, said they'd also work to defend the monument's boundaries. Last Friday, members of a newly formed Bears Ears tribal advisory group sent [Zinke a letter](#) urging him to partner with them. The letter said that any attempts to rescind or shrink the monument would be "absolute tragedies in terms of impacts on our people today."

Congress passed the Antiquities Act amid widespread looting of archaeological sites in the Southwest and other parts of the country. In response, lawmakers granted the president authority to declare national monuments and quickly dispatch federal rangers and resource to protect artifacts.

Drafts of the legislation initially limited the size of a president's monument to 640 acres or fewer, according to Richard West Sellars, a National Park Service historian who wrote a [2007 paper on the Antiquities Act](#). The bill's authors later changed that language to allow presidents to create monuments "confined to the smallest area compatible with proper care and management of the objects to be protected."

Over the years, presidents have used the act to create expansive monuments, including ones at Grand Canyon (1908), Arches (1929) and Grand Teton (1943). All were controversial, said Ruple, but eventually they became some of America's most beloved national parks.

In Utah, the Trump administration and Congress could try to derail Bears Ears by withholding funding, and Chaffetz has already asked a House of Representatives appropriations subcommittee [to do just that](#). But Culver, of the Wilderness Society, and other lawyers say the federal government could find itself in a legal pickle by refusing to honor a presidential monument designation.

"Now that we have a proclamation, that changes the game," Culver said. Bears Ears is now part of the Interior Department's [National Conservation Lands](#), a designation, she said, that requires



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the federal Bureau of Land Management by law “to prioritize managing these monument objects above everything else.”

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#### 3. **45 wildfires in 10 years; BLM conducts invasive tree removal**

*St George News, March 21 | Julie Applegate*

CEDAR CITY – The Bureau of Land Management will begin removing pinyon and juniper trees in the Three Peaks Recreation Area starting April 1 to reduce the risk of wildfires.

About 307 acres of invasive pinyon and juniper trees will be removed mechanically from the recreation area, which is managed by BLM.

Approximately 45 small wildfires have occurred in the area over the past 10 years, BLM fire mitigation specialist Nick Howell said.

The tree removal project will help reduce fire risk and protect nearby homes in Cedar City, Enoch and other neighboring communities, as well as the recreation area itself.

The project is the second phase of a multiyear effort by the BLM Color Country District to restore rangeland west of Cedar City and the Cedar Valley Estates subdivision. The project is also designed to improve watershed conditions.

“By removing encroaching pinyon and juniper trees, favorable shrubs and grasses will return to the site, increasing rangeland productivity,” BLM natural resource specialist Melanie Mendenhall said in a statement.

Pinyon and juniper encroachment is a priority for the BLM, Howell said, because the trees are outcompeting understory vegetation that is critical to wildlife and healthy ecosystems.

“One of the primary reasons this is happening is due to hundreds of years of aggressive firefighting,” Howell said. “This created in large part the ecological imbalance we see throughout the West today.”

Landscape restoration projects, including the one at Three Peaks, are supported and funded by Utah’s Watershed Restoration Initiative, Howell said.



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The watershed initiative is sponsored by the Utah Partners for Conservation and Development, which consists of private, state and federal groups, including the Mule Deer Foundation, Sportsmen for Fish and Wildlife, Safari Club International, Utah Forestry Fire and State Lands and Utah Division of Wildlife Resources.

"For every dollar that BLM brings to the table, partners match those contributions, and we get a larger 'bang for the buck,'" Howell said.

The project is expected to be completed in summer 2017. Visitors to the recreation area are asked to adhere to safety signs surrounding the treatment area; however, no road closures are expected.

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#### 4. **Utah reimbursed for Gold King Mine spill's initial costs; lawsuit weighed**

*The Deseret News, March 21 | Amy Joi O'Donoghue*

SALT LAKE CITY — State environmental regulators said Tuesday they have been fully compensated for their initial costs incurred during the response to the 2015 Gold King Mine spill, but a lawsuit against the federal government remains under consideration.

Overall, reimbursement payments from the U.S. Environmental Protection Agency come to about \$464,000, fully compensating the Utah Department of Environmental Quality for its initial response.

Utah lawmakers set aside \$500,000 during the session that ended earlier this month to pay for litigation, if necessary, against the federal agency.

"We are currently investigating and evaluating the options available to the state, including ongoing negotiations with the EPA," said Daniel Burton, a spokesman with the Utah Attorney General's Office.

Burton added that \$500,000 has been set aside as the office continues to review potential legal action.

Last month, attorneys with the U.S. Department of Justice asked a federal judge to dismiss lawsuits brought by New Mexico and the Navajo Nation as a result of the spill, which sent 3 million gallons of water contaminated with heavy metals into three states, including Utah.



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An EPA-contracted work crew breached the Gold King Mine, sending a release of mustard-colored sludge into the Animus River near Silverton, Colorado. From there, the sludge — filled with lead and arsenic — spread out into a plume that sparked an intense response by states. The spill contaminated the San Juan River after it entered Utah and ended at Lake Powell, where the full impact of the sediment deposited is being evaluated.

In response to the lawsuits, Justice Department attorneys argued that the EPA had immunity from the spill, which New Mexico and other critics insist has been minimized by the federal agency in terms of the environmental impact and duration of the remediation.

The spill required Utah water quality scientists to return to the San Juan River in 2016 to monitor how much metals-laden sediment might be churned up with spring runoff. Additional monitoring is expected to be carried out this spring.

Congress passed legislation that directs up to \$4 million to be paid to states and tribes and other entities for longtime monitoring of impacted waterways. The law went into effect in 2016.

Other entities receiving reimbursement via the Utah Department of Environmental Quality include San Juan County and the Utah Department of Natural Resources.

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#### 5. **Bears Ears is a national monument now. But it will take a fight to save it**

*The Salt Lake Tribune, March 22 | Darryl Fears, The Washington Post*

WASHINGTON — As he prepared to travel west, Interior Department Secretary Ryan Zinke got a letter from a coalition of tribes in Utah on Friday. The group had filled the seats on a commission to manage the new Bears Ears National Monument, the letter said, and Zinke was invited to discuss its future.

But the future of Bears Ears, which the tribes pushed for and President Barack Obama granted just before leaving office, is uncertain. Utah's Republican lawmakers have launched an intense lobbying effort to persuade President Donald Trump and Zinke to rescind the designation.

Management of Western land, with its teeming wildlife and vast mineral riches, will be Zinke's greatest challenge at Interior, and conflict over land is particularly acute in Utah. It's second only to Nevada among the Lower 48 states with the most federally owned land — more than two-thirds — and officials there were still smarting over the 1.9 million acres set aside for the Grand-



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Staircase Escalante National Monument by President Bill Clinton nearly two decades before Obama created Bears Ears.

The secretary hasn't commented publicly about Bears Ears, but a statement from Interior about his position on public lands echoed the concerns of Utah Republican officials who complain that a massive amount of acreage was set aside for the monument without their consent.

Zinke, an avid hunter and fisherman, supports "the creation of monuments when there is consent and input from local elected officials, the local community, and tribes prior to their designation," Interior spokeswoman Heather Swift said in the statement. Zinke believes monuments are beneficial, but "careful consideration is required before designating significant acreage."

Conservationists are worried not only about Bears Ears but also about the future of other monuments. They are concerned that Obama's recent expansion of the Papahānaumokuākea Marine National Monument on land and sea in the Northwestern Hawaiian Islands and his designations of the Northeast Canyons and Seamounts Marine National Monument in the Atlantic Ocean and Katahdin Woods and Waters National Monument in Maine could be targeted for reduction by the Trump administration.

Utah Gov. Gary Herbert, who is a Republican, and members of Utah's congressional delegation say "careful consideration" didn't happen when Obama set aside 1.3 million acres to create Bears Ears in December.

Herbert vowed to fight the new monument. "We know how to challenge this action appropriately through the many administrative, legal and legislative avenues available to us. We will aggressively pursue these options."

He put his state's money where his mouth is during a tense phone call last month with leaders of the Outdoor Industry Association. The group demanded that he end his support for a state resolution urging Trump to rescind the monument or lose two annual events that the group holds in Utah. Together, the outdoor-gear trade shows bring about \$50 million to Utah.

"If you're giving me an ultimatum here on the phone, then the answer is, I guess, we're going to have to part ways," Herbert said, and the group decided to move its trade show.

"There's going to be litigation if you rescind Bears Ears," said Amy Roberts, the executive director of the association, whose 1,200 members include the Patagonia and North Face brands. The Sierra Club and the Wilderness Society are two of the conservation groups against rescinding the monument's designation.



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The law appears to be on the their side, according to legal experts who study public lands. "The president does not have the authority to rescind based on the vast weight of legal opinion," said Bob Keiter, a law professor at the S.J. Quinney College of Law at the University of Utah.

"He has the authority to create monuments but not un-designate them. It's never been tried by a president before. Congress has rescinded a handful of public monuments. There is precedent for president and Congress shrinking national monuments. He could shrink it, but there would be a court case."

A coalition of the Navajo, Hopi, Ute and Zuni tribes supported the Bears Ears designation, said Mihio Manus, a spokesman for the Navajo Nation Office of the President and Vice President.

"I think that the coalition of tribes that supported the Bears Ears designation did so because there is cultural and historical interest in that area," Manus said. "It is those areas we're trying to protect."

Mark Wintch, vice president of Utah Cattlemen's Association, said he respects that decision but that a 1.3-million-acre monument is too much. "The hikers have access, the ranchers do not. It has become a very personal thing with the large overreach of the government telling ranchers what we can do out here."

A poll released in January appears to show that Utah's residents want their monuments to remain as they are. Sixty percent of respondents said designations should be kept in place. Ninety-five percent said opportunities for outdoor recreation in the state were good or great and 83 percent supported promoting the outdoor economy, according to the Conservation in the West poll by Colorado College.

National parks such as Zion and Arches are a boon to Utah. According to the Park Service, they generated nearly \$850 million per year in visitor spending and created 14,000 jobs that paid \$435 million in 2015.

The \$1.3 billion economic impact of parks and monuments is so important that the state stepped in during the 2013 government shutdown and paid the Park Service to keep them open.

Despite the popularity of federal lands, said state Sen. Wayne Niederhauser, a Republican, Utah should control more of the land for both mineral excavation and cattle grazing for its many ranchers.

Herbert delivered that message to Trump at this year's winter gathering of the National Governors Association in Washington. "The governor had an opportunity to talk to Trump, and



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he also has a relationship with Mike Pence," said Niederhauser, the senate president. So he has a connection, and we're making those connections.

The resolution to fight Bears Ears originated in the Utah State Legislature. "I don't believe any one person should have that kind of power," Niederhauser said, referring to presidential authority to create monuments. "We should make sure this never happens again."

The Outdoor Industry Association says Utah's hostility toward the national monuments and public lands is a threat to its industry. If the group follows through with its decision to remove its trade shows from Salt Lake City, events that brought nearly a billion dollars over the past 20 years would be lost.

Roberts said the association faced a rebellion from its ranks if it remained and that about 10 to 20 retailers said they would pull out from the summer show the association is obligated to hold July 26 through 29. "The ones that would stay said they would stay for one more show for us to look for another place."

Patagonia joined forces with two of the show's other marquee brands, REI and the North Face, to move the association to action.

"We're competitors, but we're very united on this issue," said Corley Kenna, a spokeswoman for Patagonia. "We think it's very important to make this stand on public lands. We see them as under threat."

Conservationists are at a disadvantage with Zinke and know little about his decision process. He's a former Republican House member from Montana whose votes on environmental issues scored poorly with the League of Conservation Voters.

At his confirmation hearing, he said park recreation is important for all Americans, and he said he has no intention of turning over federal land to the states. But he also said states have a right to revenue from coal and mineral resources buried in their lands.

During a recent weekend trip to Yellowstone National Park, he appeared to enjoy his romp on government land, according to several tweets.

"The crews at Yellowstone . . . put me to work today helping clear roads for the spring season," he tweeted under a picture of a snow-clearing bulldozer.



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He also signaled his reverence of parks and the need to attack the system's \$12 billion maintenance backlog. "Looking forward to that infrastructure bill," he said in a message to Congress. "Funding repairs in our parks is an investment, not solely an expense."

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#### E&E/NATIONAL NEWS – FULL STORY

##### 1. Nevada lawmakers press BLM for public lands answers

*Reno Gazette-Journal, March 21 | Benjamin Spillman*

Nevada lawmakers sought answers from a high ranking public land manager on everything from wild horses to wilderness study areas.

John Ruhs, Nevada state director for the Bureau of Land Management, testified Tuesday before a join committee of the Legislature's natural resources committee.

Ruhs' appearance before the Legislature was a routine briefing aimed at helping lawmakers better understand the role of the BLM.

That's especially important in Nevada where the BLM manages nearly 48 million acres of property and another 59 million subsurface acres.

It's the federal agency with the most public land in Nevada, a state where more than 80 percent of property is owned by the federal government.

The BLM's big role in everything from grazing to mining to energy production means state politicians of all stripes have a stake in understanding and influencing the agency on behalf of their constituents.

In general, Republican lawmakers tend to press the agency for a more lenient approach toward mining and grazing while Democrats tend to be more interested in natural resource conservation and renewable energy.

The questions lawmakers lobbed at Ruhs provided a glimpse into public land issues within the state. In many instances when Ruhs didn't have concrete answers he pledged to respond later to the lawmakers.





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Assemblyman Jim Wheeler, R-Gardnerville, asked Ruhs whether the BLM had plans to use public-private partnership programs to control wild horse populations in places like the Virginia Range near Reno.

Partnerships that administer contraceptives to the horses on the range are controversial among wild horse advocates who are divided over the practice. Ranchers and others who see the horses as competition for livestock tend to favor population control.

“What you call wild horses I call feral and stray,” Wheeler said. “The overgrazing going on with these horses obviously is a problem.”

According to news reports the BLM pulled the plug on a public-private partnership in Nevada in 2016. But Ruhs said there’s another program that seems to be getting results on a small scale in southern Oregon and there’s a chance it could be used in Nevada.

“We have had conversations to see if we can’t mirror what they’re doing there,” Ruhs said.

Assemblywoman Leslie Cohen, D-Henderson, asked Ruhs if the Nevada BLM had any plans to partner with managers of the highly publicized Bear’s Ears Monument in Utah when marketing the appeal of the recently designated Gold Butte Monument in Southern Nevada.

She also asked about the status of plant restoration in Gold Butte, an area where rancher and anti-government protester Cliven Bundy, who is incarcerated and awaiting trial for his role in an armed standoff with BLM agents near Bunkerville in 2014, has been blamed for damaging the land. Bundy’s refusal to pay grazing fees was a major issue underlying the standoff.

Ruhs said he didn’t know the status of range restoration.

“That is kind of down in the weeds for me,” he said.

Sen. Pete Goicoechea, R-Eureka, asked Ruhs how much of the \$3.5 billion in land sales under the Southern Nevada Public Lands Management Act goes to the U.S. Treasury.

Ruhs said none of the money goes to the treasury. He said it’s managed through the Department of the Interior on land and resource projects in the state.

“None of that money goes to the treasury, it stays in Nevada,” he said.



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Goicoechea also asked about the BLM's fire suppression budget in Nevada. Range fires are the subject of frequent complaint in rural Nevada.

Ruhs said he didn't know the budget figure but after the meeting an aide said in 2016 there were 348 fires, with 260,697 acres burned and \$23,255,762 spent on suppression.

Assemblyman John Ellison, R-Elko, pressed for answers on the 60 wilderness study areas Ruhs said cover about 2.5 million acres in Nevada.

Wilderness study areas are places that are being evaluated to become a federally designated wilderness area, one of the most stringent conservation designations available for public land.

While under consideration they're typically managed with wilderness restrictions. Rural lawmakers say they get frustrated by instances in which the "study area" designation remains in place for decades even when there is evidence the land doesn't have characteristics worthy of the wilderness label.

"I don't know how long they can be studied, we need to get these things off this list," Ellison said.

Ruhs told Ellison study area decisions don't come quickly.

"It is not something I have dealt with since I have been in Nevada," Ruhs said.

After the hearing he said decisions on whether to designate a study area as wilderness or release back to its prior designation tend to come from Congress through legislation dealing with specific parcels.

"I've never seen it happen outside of a land act," he said.

None of the lawmakers from either major party asked Ruhs about proposals to shift control of federal land to states or sell it to private interests.

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#### 2. Trump Gets Bipartisan Pushback on Energy, Interior Budget Cuts

*The Morning Consult, March 21 | Jack Fitzpatrick*

Lawmakers in both parties are complaining about the energy and environmental agenda laid out in the Trump administration's budget blueprint last week.

Democrats criticized a wide array of proposed cuts, while Senate Energy and Natural Resources Committee Chairman Lisa Murkowski (R-Alaska) said Republicans would detail their own priorities in due time.

"I think we recognize that we're in a budget environment where it's just tough around here," Murkowski said during a committee hearing on infrastructure projects on Tuesday. "And as we saw from the 'skinny budget' that was laid down, there's a lot in it that a lot of us don't like."

Murkowski told reporters after the hearing she disagrees with the White House proposal to cut the Department of Energy's Advanced Research Projects Agency-Energy and to cut DOE's loan guarantee program, which she said should be reformed rather than eliminated. She had also previously criticized the proposal to eliminate the Department of Transportation's Essential Air Service and the Department of Health and Human Service's Low Income Heating Assistance program.

But she said the White House budget proposal is short on details, and lawmakers would have their turn to respond.

"I recognize that when a president's budget request gets laid down, it's the president saying, 'Hey, this is where I'm coming from. These are my priorities,'" she told reporters. "Well, we will say in this committee, and in the other committees that I serve on and in appropriations, how we feel the legislative priorities should balance against the president's."

Democrats were more aggressive in criticizing the proposed \$1.5 billion in budget cuts for the Department of the Interior. Twelve Democratic senators sent a letter on Tuesday to President Donald Trump expressing "dismay" at the cuts, which they called "deeply disappointing." The letter criticizes a number of measures, including funding for climate change resiliency, for fighting wildfires in national forests and for the National Park Service.

The proposed Interior budget prompted a discussion at the hearing about increasing the role of volunteers and public-private partnerships at the National Park Service. Marcia Argust, director for the Pew Charitable Trusts' Restore America's Parks campaign, told the committee the



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National Park Service could save money by having volunteer coordinators in each region, rather than a single volunteer coordinator in Washington.

Argust also suggested focusing more on partnering with private business volunteers to help maintain parks. She said there is a “public perception problem” about corporate partnerships that sponsor maintenance activities.

“There is a concern that that is going to lead to a banner across Mount Rushmore,” Argust said. “That is not the case.”

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### **3. Judge issues guilty verdicts on 9 of 11 misdemeanor charges against four Oregon standoff defendants**

*The Oregonian/OregonLive, March 21 | Maxine Bernstein*

A federal judge on Tuesday found four men guilty of trespassing and other misdemeanor charges for their roles in the occupation of the Malheur National Wildlife Refuge last winter.

U.S. District Judge Anna J. Brown issued her rulings in court against Jason Patrick, Duane Ehmer, Darryl Thorn and Jake Ryan -- the final four defendants in the Malheur case to go on trial.

Shortly afterward, Patrick was taken into custody by deputy U.S. marshals after the judge ordered that he be placed on electronic monitoring as he awaited sentencing.

Patrick, described by prosecutors as an organizer of last winter's occupation, chose to go to jail instead. He stood, removed his blue blazer, took off his belt, emptied his pockets, placed his pack of cigarettes on the defense table and was handcuffed. He turned to his mother in the courtroom gallery and said, "I love you," before he was led out.

A jury returned verdicts against the four on separate felony charges on March 10, finding each guilty of at least one felony.

The judge decided the misdemeanor charges based on testimony presented during the trial, additional evidence presented in court while the jury was deliberating and arguments made in court briefs from prosecutors and defense attorneys.



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In a 40-page written ruling, Brown found it "highly improbable" that the occupiers would have allowed refuge employees or an "unsympathetic federal official" to go onto the property during the takeover. She also said no formal notice of trespass or official demand to leave was needed to find the defendants guilty of trespass.

Brown concluded that all participants in the occupation knew the refuge was federal government property and knew they didn't have any authority over the wildlife sanctuary.

"This fact was not only obvious to any reasonable observer, it was fundamental to the purposes of those who took over and continued to control the MNWR," Brown wrote. "Indeed, knowing that their actions were not authorized was inherent in the occupiers' efforts to attempt to assert 'adverse possession' over the MNWR and to protest what they described as federal government overreach."

Occupation leader Ammon Bundy had testified repeatedly that he intended to stake claim to the property through the principle of adverse possession and turn it over to the people of Harney County.

Document: Judge's written ruling

Besides convicting each of the four of trespass, the judge also found:

-- Patrick, 44, of Bonaire, Georgia, guilty of tampering with vehicles and equipment, and destruction of property.

Aerial surveillance captured Patrick driving a government Dodge Durango on the refuge property on Jan. 27, 2016. He also was filmed cutting a barbed-wire fence on the perimeter of the refuge on Jan. 11, 2016.

-- Ehmer, 46, of Irrigon, Oregon, guilty of tampering with vehicles and equipment for using a refuge excavator to dig trenches on the property on Jan. 27, 2016.

The judge found him not guilty of removing government and private property.

FBI agents had found a maroon pouch stuffed beneath the passenger seat of his car that contained refuge gas cards, an employee's ID card and cash and receipts belonging to the nonprofit Friends of the Malheur National Wildlife Refuge.



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His defense lawyer argued that Ehmer had taken the pouch for safekeeping, believing it contained cash donations for the occupiers.

Prosecutors, the judge found, failed to prove that Ehmer knew the pouch belonged to the refuge or the federal government.

"In light of the lack of evidence that Ehmer opened the pouch; the label on the front of the pouch that read "New Money"; and the lack of markings associating the pouch with the United States government, the MNWR, or the Friends, the government has failed to prove beyond a reasonable doubt that Ehmer knew or should have known that the pouch or any of its contents belonged to the United States and/or to the Friends," Brown wrote.

Ehmer, after the hearing, said he was pleased about the not guilty verdict.

"The world knows I'm not a thief now," he said.

-- Thorn, 32, of Marysville, Washington, guilty of one count of tampering with a vehicle -- a refuge all-terrain vehicle, but not guilty on another count of tampering with a vehicle, what was described in the criminal information sheet as a front-loader.

His lawyer argued that it was a backhoe, and noted that refuge manager Chad Karges had identified the vehicle as a backhoe.

The judge, as a result, found "the government failed to prove beyond a reasonable doubt that the machine that Thorn operated was the alleged front-end loader."

-- Ryan, 28, of Plains, Montana, guilty of tampering with vehicles and equipment for using an excavator to dig trenches with Ehmer on Jan. 27, 2016.

The defense had argued that the federal regulation involving trespass at a national wildlife refuge was vague. They also said defendants never received formal notice they were trespassing and the government couldn't prove that the four ever saw trespassing signs on the property.

Defense lawyers pointed to testimony and photos that showed the Durango, ATV, excavator and front-loader didn't have U.S. Fish & Wildlife decals on them and the Durgano also had no license plate.



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Prosecutors countered that the defense team's arguments in the face of "overwhelming" evidence defied common sense.

"At the Malheur National Wildlife Refuge, notices were posted at the entryway regarding permissible uses, at the front gate noting when the refuge was open and near the offices and workplaces defendants occupied designating those areas closed to the public. ...Defendants' claims that they did not see these signs is simply not credible," Assistant U.S. Attorney Geoffrey Barrow wrote in a court filing.

Prosecutors conceded in their legal brief that the vehicles and equipment had no government markings, but argued strong circumstantial evidence showed the defendants knew they belonged to the refuge. But even so, Barrow argued, the government didn't need to show the defendants knew the vehicles belonged to the Fish & Wildlife Service because ownership isn't an element of the tampering charge.

Defense lawyers said, though, that both sides agreed before the trial that prosecutors had to prove that the defendants knew the equipment belonged to the government as an element of the offense.

Attorney Michele Kohler, who represents Ehmer, said the government can't change the burden of proof now. "The defendants' entire defense rested on the lack of evidence to prove beyond reasonable doubt that as to each defendant they 'knowingly' committed the offenses alleged," she wrote.

The judge found that reasonable people in the defendants' circumstances would know that they lacked authority to enter the vehicles that they found on the refuge.

Prosecutors filed the misdemeanor charges against the defendants in late December after last fall's across-the-board acquittals of occupation leaders Ammon Bundy, his older brother, Ryan Bundy, and five co-defendants on felony charges.

The four defendants had wanted a jury to decide the misdemeanor counts, but Brown ruled they didn't have the right to a jury trial for such petty offenses.

Each misdemeanor conviction could bring up to six months in prison.

Patrick and Ehmer were present in court Tuesday. Ryan and Thorn waived their appearances, but Thorn listened to the proceeding by phone.



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Sentencings are tentatively set for May 10. Further hearings will be set on government forfeiture and restitution claims.

Andrew Kohlmetz, Patrick's lawyer, said he expected the misdemeanor convictions.

"Nobody harbored any illusions about what was going to happen," Kohlmetz said. "We always expected they would be found guilty."

But he called the misdemeanor counts "throw-away charges in case the others didn't stick."

Tung Yin, a Lewis and Clark Law School professor, said that the guideline range for defendants' sentencing will be calculated based on the most serious convictions, such as the federal conspiracy to impede or possession of firearms in a federal facility.

"Practically speaking, the misdemeanors don't likely add much in terms of the sentencing guideline range," Yin said.

#### **Patrick chooses custody over electronic monitoring**

Pretrial services officer Nick Nischik had recommended Patrick be placed on home detention and electronic monitoring. Nischik argued that Patrick had been difficult to contact because he had no stable residence, has remained unemployed for close to a year despite a pretrial condition that he find work and hasn't resolved a pending charge in Georgia.

In light of the jury's verdicts on his felony charges, Barrow told the court he didn't think Nischik's request was unreasonable.

But Kohlmetz said monitoring was unnecessary.

"We object to the request of GPS monitoring," Kohlmetz said, noting that Patrick has made all court appearances and committed no new offenses. He said Patrick was staying mostly with his mother and sister in Washington state, had found "spot work" with B.J. Soper and was spending the past year preparing for his case.

Patrick was indicted in 2015 on a charge of making terroristic threats, a felony, in Houston County, Georgia, and hasn't been required to appear in court as he intends to fight the allegation at a trial, his lawyer said.





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"It sounds worse than it is," Kohlmetz said.

He was overheard "threatening to kill everyone inside the Warner Robins Municipal Court complex," south of Macon, physically resisting arrest and refusing to follow a police officer's commands to leave the courthouse lobby, according to the indictment filed in Houston County Superior Court.

Brown noted there were many times that Patrick "simply refused to do what was directed," citing late arrivals to his trial.

"For Mr. Patrick, there's every incentive to continue his defiant behavior," the judge said. "He can't simply come and go from place to place given his current status."

Brown said she was approving the electronic monitoring for Patrick but asked that his lawyer provide the pretrial services officer with more specific information about where Patrick would be staying.

Moments later, Kohlmetz stood and told the court, "Mr. Patrick would prefer to be taken into custody."

Before court, Patrick told The Oregonian/OregonLive that he would cut off an electronic monitoring anklet or bracelet if the judge had ordered it. His time in custody will count toward any prison term he is given once sentenced, his lawyer said.

"Jason strongly believes people in authority need to be questioned," Kohlmetz said. "Some people in authority don't like to be questioned."

Patrick's mother, Vickie Patrick, said later she wasn't surprised by her son's decision.

"He always prepares me ahead of time," she said. "It's still harrowing yes, but I'm not surprised, at least."

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#### 4. Interior Department Bureau Gets Good Review

*FEDweek, March 22 | Press Release*

The creation in 2011 of a separate Bureau of Safety and Environmental Enforcement in the Interior Department “significantly strengthened the federal government’s ability to effectively oversee industry” related to outer continental shelf resources, a study has said.

The National Academy of Public Administration reviewed the BSEE’s progress in meeting its mission of “ensuring that the nation’s offshore energy is effectively developed in a safe and environmentally sustainable manner,” as the report described it.

“BSEE’s establishment has helped ensure high levels of protection for worker safety and the environment and utilization of OCS resources in a manner that is in the best interests of the nation. BSEE’s creation also provides a strong foundation for improving what had previously been insufficient federal oversight of compliance monitoring (permitting and inspection), investigation and enforcement, and oil spill response preparedness,” it said.

The report made recommendations to build on “the achievements that BSEE has made thus far and increase the bureau’s functioning and sustainability.”

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#### 5. PUBLIC LANDS: Senators push public-private partnerships for infrastructure

*E & E News, March 22 | Kellie Lunney*

Congressional funding alone will not be enough to upgrade aging infrastructure or tackle a massive maintenance backlog on the nation's federal lands, a top Senate Republican said yesterday.

Senate Energy and Natural Resources Chairwoman Lisa Murkowski (R-Alaska) said leveraging private money through public-private partnerships "is absolutely necessary in these tough budget times. I think it can be a win-win for both the federal government and our rural, regional economies."

Murkowski also leads the Interior, Environment and Related Agencies Appropriations Subcommittee.



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Murkowski's comments came during the Energy panel's second meeting in less than a month on infrastructure, one of the hottest topics of debate on Capitol Hill this year (E&E Daily, March 20).

The Alaskan intends for Energy and Natural Resources to play a major role in helping to craft a large-scale legislative package — a White House priority — on projects to improve the country's roads, bridges, airports, water and transit systems.

"Everyone else is talking about infrastructure and what they can contribute to the package," she said. "I think within this committee we have the most exciting part of that portfolio."

Panel ranking member Maria Cantwell (D-Wash.) criticized the White House's fiscal 2018 blueprint, which calls for a 12 percent cut to the Interior Department's budget, saying that it undercuts the administration's push to boost investment in infrastructure and create more jobs.

"Investing in infrastructure is key to maintaining and growing our economy," said the Democrat, who along with 11 other senators sent Trump a letter yesterday decrying the proposed Interior budget cuts (Greenwire, March 21).

"I thought President Trump, Republicans and Democrats all agree on that. But we need a budget proposal that can help us do that," Cantwell said. "It is ironic that we are gathered to discuss infrastructure funding after having just received a budget that essentially abandons that entire concept."

The multibillion-dollar deferred maintenance backlogs at several lands agencies (nearly \$12 billion at the National Park Service; \$3 billion at the Bureau of Reclamation; and more than \$5 billion at the Agriculture Department's Forest Service) is a concern for both Republicans and Democrats.

"This is significant, and I don't think that any of us should kid ourselves that the backlog, in order to truly and meaningfully address it, is going to take real dollars to resolve," Murkowski said.

It's an area that could particularly benefit from public-private partnerships, lawmakers and witnesses said.

Sen. Steve Daines (R-Mont.) said he'd like to "explore some creative ways we can facilitate new investments in our maintenance backlog ... whether it's more public-private partnerships or the use of innovation and technology."



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Daines, who also sits on the Interior Appropriations subcommittee, said he was "committed" to fighting for as much funding as possible for the agencies that fall under the panel's jurisdiction.

Marcia Argust, director of the Pew Charitable Trusts' campaign to restore America's parks, provided examples of successful existing corporate partnerships with the federal government, including one with Musco Lighting. The company has worked with NPS to light some of the country's best-known landmarks, including the Washington Monument and Mount Rushmore.

"The updated lighting systems enhance visitor experience, improve resource protection, preserve the dark sky environment and reduce costs," Argust testified.

Senators from both sides of the aisle and witnesses also expressed concern during the hearing over the nation's water infrastructure needs — an area that could be ripe for bipartisan cooperation.

Sen. Cory Gardner (R-Colo.) pointed out that Colorado alone is facing roughly \$15 billion in water infrastructure needs over the next several years.

Cantwell plans to reintroduce legislation she shepherded last year to improve water security, fisheries and water conservation.

"Water infrastructure is perhaps the most important, yet overlooked, form of infrastructure in our nation," testified Chris Treese, manager of external affairs at the Colorado River Water Conservation District. "Access to a sustainable supply of water is a fundamental necessity for all economic development. Conversely, adverse economic consequences are certain if we do not invest and reinvest in our water infrastructure."

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#### 6. **REGULATIONS: Senate GOP still hunting votes to block methane rule**

*E & E News, March 22 | Geof Koss and Kellie Lunney*

Senate Republicans signaled yesterday that they're still short of the necessary votes for a Congressional Review Act resolution targeting the Bureau of Land Management's methane rule.

Majority Whip John Cornyn (R-Texas), who last week said the resolution ([S.J. Res. 11](#)) could come up this week, said yesterday that the timing for a floor vote would probably be "later" (E&E Daily, March 16).



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"We're still working on that," he said yesterday, adding there wouldn't be a vote "till you know what the outcome is going to be."

Senate Environment and Public Works Chairman John Barrasso (R-Wyo.), who is whipping votes as the chief sponsor of the measure, yesterday suggested the delay was a matter of strategic timing.

"We want to get all the Republicans here to make sure they're here to vote, and everybody's not here yet this week," he said in a brief interview.

However, proponents of the measure say that with two GOP senators — Maine's Susan Collins and South Carolina's Lindsey Graham — expected to oppose it, the margin of error is razor thin.

The American Council for Capital Formation yesterday said it would extend a print and digital ad campaign in Washington, D.C., and West Virginia, Ohio, Tennessee, Colorado, Indiana and North Dakota, with a growing focus on Ohio and Indiana.

Those states reflect the fact that Sens. Rob Portman (R-Ohio) and Cory Gardner (R-Colo.) have not yet taken a position on the resolution. The ads are also intended to pressure moderate Democrats like Sen. Joe Donnelly of Indiana, who is up for re-election in 2018, to vote yes on the proposal, which needs a simple majority to pass the Senate.

The House voted to kill the BLM rule in February in a 221-191 vote, with three Democrats in favor and 11 Republicans opposing it.

Gardner wouldn't say yesterday how he planned to vote when the disapproval resolution eventually comes to the floor. "I'm continuing to hear from people back in Colorado about the regulation," he said yesterday.

Colorado enacted its own methane regulations in 2014, which served as a model for the BLM rule. There is some uncertainty over how the fate of the federal rule will affect Colorado's own regulations on methane venting and flaring (Energywire, March 13).

"Colorado came up with a unique Colorado solution for this very question, and I want to make sure that Colorado rights are accounted for in any regulation," Gardner said. "Whether it's a regulation on venting and flaring as proposed, or whether it's repeal of such regulation, I want to make sure that that Colorado solution is maintained."

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#### **7. OFFSHORE DRILLING: Trump admin may tinker with 5-year Obama plan — official**

*E & E News, March 22 | Emily Yehle*

The Trump administration is considering changes to the five-year oil and gas leasing plan finalized under President Obama, according to a top Interior Department official.

Richard Cardinale, acting assistant secretary for lands and minerals management, told lawmakers yesterday that the administration is looking at the plan, in response to a question from Rep. Jamie Raskin (D-Md.).

"At this point I don't know the specifics, but I do know that the administration is in fact taking a look at the plan that was finalized at the end of the last administration," Cardinale said.

The current plan does not include Arctic and Atlantic leases, limiting new sales to the Gulf of Mexico and Alaska's Cook Inlet until 2022. The oil industry has roundly criticized it as shortsighted, and Interior Secretary Ryan Zinke has emphasized the need to open more waters to drilling.

It can take years to complete a five-year plan, which must follow the National Environmental Policy Act. The administration could also be hampered by Obama's decision to use his authority under the Outer Continental Shelf Lands Act to permanently withdraw much of the Arctic and areas in the Atlantic Ocean from future oil and gas leasing (E&E News PM, Dec. 20, 2016).

Cardinale's comments came during an oversight hearing on Interior's Bureau of Safety and Environmental Enforcement. In a new [report](#) — released during the hearing — the Government Accountability Office found leadership problems at the agency, which was created after the 2010 Deepwater Horizon explosion.

Rep. Blake Farenthold (R-Texas), who presided over the hearing as chairman of the House Oversight and Government Reform Subcommittee on the Interior, Energy and Environment, said leadership is a "continual problem at BSEE."

"The GAO has found a disconnect and more importantly a distrust between BSEE headquarters and its region," Farenthold said. "BSEE leadership has consistently hired contractors to try to fix its problem rather than using its own knowledgeable and experienced personnel. This distrust has caused significant duplication and reduced the agency's efficiency."



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The GAO report emphasizes the disconnect of BSEE leadership, citing the failure of a pilot program to conduct risk-based inspections of offshore facilities. The agency's leaders failed to get input from experienced regional personnel, who could have pointed out problems earlier, according to the report.

Frank Rusco, director of natural resources and environment at GAO, said regional management and staff are doing an "excellent job." But BSEE leaders have hampered those employees, he said, in their efforts to improve oversight.

"Time and again, BSEE has chosen consultant studies and headquarters-led projects instead of in-house expertise and experience," Rusco said. "This has cost the Bureau precious time and the taxpayers precious dollars to achieve very little of substance in the past five years."

Among his examples of failed leadership, Rusco pointed to BSEE's decision to move its environmental compliance unit from a national to a regional reporting structure. The agency also left numerous positions in that unit unfilled for years — despite the fact that Congress had funded them. The Gulf of Mexico was thus left without needed staff to oversee compliance, Rusco said.

Cardinale said the compliance inspection team is now fully staffed. BSEE is also working to improve its engagement with regional staff, he said; a federal survey last year showed that employees have little faith in their agency's leadership.

"I think part of the issue had been lack of engagement of subject matter experts from the field," Cardinale said. "That, as I understand it, has changed specifically with Secretary Zinke's leadership. [He] wants to empower and engage, as he calls it, people on the front lines."

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#### 8. **MINING: GOP, industry press for streamlined permitting**

*E & E News, March 22 | Dylan Brown*

House Republicans angled at a Natural Resources subcommittee hearing yesterday to get mining on the list for swift permitting as part of the Trump administration's \$1 trillion infrastructure initiative.



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"Expedited permitting regimes for infrastructure projects will have little to no effect if the mines that supply material to these projects do not share the same accelerated process," Energy and Mineral Resources Chairman Paul Gosar (R-Ariz.) said.

Industry witnesses blamed permitting for increased U.S. dependence on foreign countries for many minerals, which they deemed a national security risk.

Democrats disputed that narrative, focusing on their own national security concern, climate change.

Ranking Democrat Alan Lowenthal of California said the nation must prepare for stronger storms, droughts and rising seas while reducing emissions of heat-trapping greenhouse gases.

"We need to design the infrastructure of today to withstand the climate of tomorrow," he said. "Smarter infrastructure planning now will save us lots of money in the future."

Lowenthal lauded Gosar's bill to boost renewable energy development on public lands, [H.R. 825](#), as a good start.

But, Gosar reminded the Democrat, renewable energy requires copper.

According to the U.S. Geological Survey, the United States imports 34 percent more copper than it sends abroad.

Gosar said permit delays plague copper mines in Arizona. For the Resolution Copper mine, he said, Rio Tinto PLC has already spent \$1.3 billion on permitting but is still years from mining.

Nigel Steward, the mining giant's copper operations manager, testified that environmental reviews should remain rigorous.

"It's really just defining the great uncertainty around the timelines," he said, expressing support for permitting deadlines included in Rep. Mark Amodei's (R-Nev.) [H.R. 520](#).

Industry research has found mines take seven to 10 years to permit, far longer than rival nations like Canada, while mine value is reduced by about a third by the delay. But a 2016 Government Accountability Office report found the average permitting time was about two years.

Howard Nye, CEO of North Carolina-based Martin Marietta Materials Inc., a major U.S. supplier of aggregates — sand, stone and gravel used in manufacturing — told lawmakers that activists use regulations in court fights to delay or halt projects.





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"We want what I know you want — clean air, clean water, a safe working environment and an economy allowing our citizens a better life," Nye said, testifying for the National Sand, Stone and Gravel Association. "There are, however, plainly regulations that provide no measurable public benefit."

Rep. Raúl Grijalva (D-Ariz.), a vocal opponent of Resolution Copper, pointed to the annual Fraser Institute survey of mining executives that lists the United States as one of the most appealing places to mine.

And in a statement after the hearing, Lauren Pagel of the nonprofit Earthworks, said, "The mining lobby is using our infrastructure needs as a 'bait and switch' to justify endangering our waters and disenfranchising our communities so that the mining industry can further line its pockets."

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#### 9. **TEXAS: Most methane in groundwater is not a result of fracking — study**

*E & E News, March 22 | Mike Soraghan*

A broad review of Texas water data has found that oil and gas drilling is not the source of most methane found in Texas aquifers.

But the lead researcher says the findings don't mean that production wells can't leak stray gas into drinking water.

"Most of the methane is natural, or at least can be explained through natural processes," said J.P. Nicot, a research scientist at Texas' Bureau of Economic Geology who led the research. But, he added, "I have no doubt that some wells have leaked."

The findings square with the findings of U.S. EPA's yearslong study of hydraulic fracturing and drinking water. That study found that shale drilling doesn't cause contamination everywhere it's done, but there are instances where contamination has occurred.

The study, published recently in the journal *Groundwater*, has its roots in a yearslong controversy about methane contamination of water wells in two neighborhoods in Parker County in the exurbs of Dallas-Fort Worth. In 2010, EPA accused a gas company of contaminating drinking water near one of its drilling operations. But state officials disagreed, and EPA dropped the case (Energywire, May 29, 2014).



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Nicot said he proposed a federal research program called the Research Partnership to Secure Energy for America to take a broader look at the question of methane contamination.

"The idea was to broaden the scope, take samples all over the state," Nicot said.

But Nicot said the study doesn't have answers about the source of methane in the water well at the center of that controversy, owned by a man named Steve Lipsky.

"I'm not sure what's going on in that situation, we were not trying to resolve that legal situation," Nicot said. "We aren't particularly interested in solving the issue for a particular landowner or a particular well."

The study also notes that its findings can't account for a water well in the area contaminated with methane that wasn't present when the well was drilled.

The study recommends a more extensive sampling campaign for the Parker County wells that are "still the object of discussion at the national level."

Researchers at the Bureau of Economic Geology, which is part of the University of Texas, Austin, worked on the study with colleagues from the University of Michigan.

The study looked at water and gas wells in the Barnett Shale, the Dallas-Fort Worth area and well into its exurbs. But Nicot's team studied the Haynesville Shale play, the Eagle Ford Shale play and the Permian Basin, and found similar results.

For the Barnett study, researchers analyzed samples from more than 450 wells across 12 counties in the western Barnett Shale drilling area — basically the western side of the Greater Dallas-Fort Worth area.

The researchers found there was no correlation between the density of Barnett Shale gas drilling and the amount of methane found in groundwater. For example, some of the highest readings of dissolved methane were found in the Parker County area, on the western edge of the drilling area. But that area has some of the lowest density of drilling.

Instead, the study said the methane found in the water was likely from shallow natural gas deposits.

The study found a cluster of high readings around the southern border of Parker County, around Lipsky's neighborhood. But Nicot said the team's research showed that most well water in the area had not been exposed to a "gas phase," or potential leakage event.



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Nicot said his team was not able to do extensive testing on Lipsky's well. But the study criticizes some of the sampling done by the gas drilling company, Range Resources Corp., in the early days of the controversy.

Range's results showed very low amounts of methane in drinking water in Lipsky's well and those of his neighbors. But there have been several other rounds of testing, including the testing for the BEG study, that found higher amounts. The study said it's "puzzling" how some readings could be so low when the water had been described as "bubbling." The study suggested that proper sampling procedures were not followed.

"That cannot be correct," Nicot said. "They did something wrong."

A spokesman for Range Resources did not respond to a request for comment on the assertion that the company's testing was erroneous.

Many of the samples used in the study were gathered by a Texas environmental firm Inform Environmental LLC, a Texas scientific firm. The firm's chief scientific officer, Zac Hildenbrand, led a study published in 2015 that found more groundwater abnormalities in the counties where there is more drilling activity.

Hildenbrand said he found it puzzling that Nicot's study didn't look more closely at the prospects that leaking wells contaminated groundwater.

"To say all of them are contaminated by oil and gas is incorrect," Hildenbrand said. "To say all of the contamination is naturally occurring is also incorrect."

Hildenbrand says his research has been looking at stray methane conducted upward toward groundwater through the open space between drill pipe and the well bore. He expects the research to be published soon. Nicot said Hildenbrand's theory "makes sense" but wasn't borne in the samples his team examined.

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#### 10. **METHANE: Texas joins battle over BLM rule**

*E & E News, March 22 | Ellen M. Gilmer*

A high-stakes legal fight over an Obama-era rule for methane emissions from oil and gas development on public lands may have a new player: Texas.



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State Attorney General Ken Paxton (R) yesterday asked a federal court for permission to join a lawsuit over the Bureau of Land Management's Methane Waste Prevention Rule. Paxton says the rule duplicates state standards and creates expensive burdens for oil and gas operators.

"This is yet another case of gross federal overreach in which the Bureau of Land Management exceeded its legal authority, bypassing Congress to implement an unlawful rule on methane gas," he said in a statement. "The regulation has negligible environmental benefit and adds additional cost to both Texas and the oil and gas industry by creating more red tape."

Three other states — Wyoming, Montana and North Dakota — are challenging the regulation alongside the Independent Petroleum Association of America and Western Energy Alliance. Finalized in November 2016, the rule sets limits on venting and flaring of methane, the primary component of natural gas, from wells on public and tribal lands.

The rule is also in the crosshairs of many Republicans in Congress. The House of Representatives last month greenlighted an effort to roll back the rule via the Congressional Review Act, but that effort has hit some roadblocks in the Senate (E&E Daily, March 16; E&E Daily, March 22).

Though Texas is not a traditional public lands state, state lawyers noted in a brief to the court that the state has 3 million acres of federal lands that overlay oil and gas fields where mineral rights are often owned by the state or private parties.

"Even where the federal mineral ownership is small relative to other mineral ownership interests, now all the oil and gas operators with interests are subject to the Rule," the brief said. "The Rule significantly and adversely impacts Texas because it displaces Texas's sovereign authority and improperly asserts BLM authority over vast stretches of Texas — and privately-owned minerals — solely via interspersed with a small number of federal tracts."

Texas and the other challengers say the rule is beyond BLM's authority. The agency crafted the regulation under its authority to prevent waste of oil and natural gas resources, but critics say it is effectively an air quality regulation — treading on the turf of U.S. EPA, states and tribes.

The U.S. District Court for the District of Wyoming in January rejected the challengers' request to freeze the rule during the course of the litigation, noting its very gradual phase-in of new standards. Still, the court raised concerns about the rule's potential overlap with state and EPA air quality regulations (Energywire, Jan. 17).

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#### 11. **SAGE GROUSE: Carefully timed grazing can benefit birds — study**

*E & E News, March 22 | Scott Streater*

Altering the timing of livestock grazing within sagebrush rangelands could help restore sage grouse populations across the West, according to a new study that ranching advocates say proves well-managed grazing activity is good for grouse.

One goal of the [study](#), led by researchers at Colorado State University and the U.S. Geological Survey and published in the journal *Ecological Applications*, is to find ways to continue grazing cattle on lands overlapping sagebrush ecosystems that sage grouse depend on.

Among the key findings is that sage grouse numbers appeared to increase when grazing activity occurred later in the growing season, after critical nesting season, when the grouse need the vegetation in the sagebrush for food and shelter from predators.

"Grazing later also may stimulate subsequent growth of grasses and forbs if cattle remove standing dead vegetation or reduce shrub coverage," the study said.

The researchers analyzed grazing records on federal allotments in sagebrush-dominated rangelands in Wyoming, which is home to the highest number of sage grouse, between 2002 and 2012. They then compared grazing activity during that time period with annual male grouse counts at 743 breeding sites, called leks.

They found that high grazing activity early in the growing season was associated with declining sage grouse populations at these leks, possibly due to the sensitivity of some grass species to grazing during the spring growing period.

"Our study suggests livestock grazing may have both positive and negative effects to Sage-grouse population trends depending on the timing and level of grazing," the study says.

"Furthermore, modifications in grazing management could attenuate declines or even stabilize otherwise declining Sage-grouse populations, so livestock could be one tool among a number of management actions for maintaining or restoring habitat for this species."

Poorly managed livestock grazing has long been acknowledged as a threat to sage grouse, along with wildfires, invasive plant species, and human activity such as road building and oil and gas development.

Some environmental groups have called for strict limits on grazing activity in and around sage grouse habitat.



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The Bureau of Land Management and Forest Service, which in late 2015 finalized sage grouse conservation plans covering nearly 70 million acres of sage grouse habitat in 10 Western states, have prioritized reviewing grazing allotments that overlap grouse habitat but have not proposed limits on grazing.

The latest study falls in line with the conclusions of a report last year submitted to BLM, the Forest Service, and the Fish and Wildlife Service by the Public Lands Council and National Cattlemen's Beef Association. The groups argued in the report that well-managed grazing activity can keep grasses at heights that shield and protect sage grouse while reducing invasive plant species like cheatgrass, which burns easily and can help spread wildfires rapidly (Greenwire, Oct. 11, 2016).

Both groups have vowed to press the Trump administration to halt implementation of the federal sage grouse plans (E&E News PM, Jan. 4).

"This report is further evidence that proper grazing is absolutely essential to sage grouse habitat and population growth — something ranchers have been saying for 20 years," said Ethan Lane, executive director of the Public Lands Council, who also leads the federal lands program at the National Cattlemen's Beef Association.

Lane stopped short of endorsing limiting early grazing activity, however, saying that "the science is still evolving" on that point.

"Increasing our understanding of how the amount of grazing and season of livestock use affect vegetation could help inform short-term modifications to livestock management to benefit sage grouse populations and help sustain Western ranching operations," said Cameron Aldridge, an ecologist at Colorado State University and one of the co-authors of the latest study.

The study "provides hope for a way to help sustain ranching while simultaneously sustaining wildlife populations," added David Pyke, a USGS ecologist and study co-author.

But there may be some negative impacts to the ranching industry, the study says.

Indeed, "altering the timing or level of grazing may have economic implications for livestock producers, at least in the short term, including the need to purchase alternative sources of forage or reduce herd sizes," the study says.

But the overall benefits are worth it, according to the study, which concludes that "grazing management that reduces or avoids impacts to less grazing-tolerant herbaceous plants as they



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approach their peak productivity could increase forage production potential in the long-term and thereby benefit both ranching operations and species such as Sage-grouse."

Mark Salvo, vice president for landscape conservation with Defenders of Wildlife, said the study offers some "common sense" suggestions.

"Grazing livestock in nesting habitat at the same time sage grouse need that habitat can negatively affect grouse," Salvo said. "The federal sage grouse plans could have been stronger on this point, but there is still opportunity to incorporate these findings into grazing management decisions in sage grouse range."

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#### 12. **POLITICS: Greens write playbook for 'environmental Armageddon'**

*E & E News, March 22 | Robin Bravender*

Major environmental groups have a strategy for countering President Trump: all-out war.

They are largely united in their opposition to Trump, who has promised to roll back environmental rules, expressed doubts about prevailing climate change science and proposed slashing funding for federal environmental programs. Liberal groups left reeling after the November election are coordinating their tactics as they prepare to shift from gently prodding the Obama administration to combat against the president and his allies.

"This is potentially the environmental Armageddon," Friends of the Earth President Erich Pica said of the Trump administration.

The playbook: Keep up a drumbeat of negative messaging, challenge the administration relentlessly in court, loudly oppose nominees for key jobs, pressure Congress, rally the public against rollbacks of regulations and pounce when Trump's environmental agencies fall down on the job.

"We are going to fight this administration every step of the way for as long as it's in power," Sierra Club Executive Director Michael Brune said. "President Trump and his allies in Congress are a unifying force. This administration is seeking to dismantle the protections that every American enjoys for clean air, clean water, a stable climate and public lands."



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Environmental leaders say their strategy is far more aggressive than what they have done during past Republican administrations. They've seen few indications they'll find common ground with Trump.

Brune said he has never seen so much collaboration and coordination among environmentalists. "We are having frequent calls, large conference calls with dozens or maybe hundreds of organizations on a daily basis to coordinate our work," he said. "And we're also deepening the connections between large national environmental organizations and smaller faith-based or local groups so that we're more coordinated in our response."

After the presidential race, some environmentalists were optimistic Trump might shift to the left of his campaign trail rhetoric on climate change and the environment. During the transition, he met with climate activist and former Vice President Al Gore, said he'd keep an open mind on the Paris climate change accord and called himself "somebody that gets it" when it comes to environmental issues (E&E Daily, Dec. 12, 2016).

But Trump's environmental nominees, his executive actions to repeal major regulations and his plans to slash U.S. EPA's budget by about a third have hardened the opposition.

Consider the appointment of Scott Pruitt to lead EPA, Pica said. As Oklahoma's attorney general, Pruitt led the fight to overturn Obama EPA rules, including major climate and water regulations supported by environmentalists.

"We saw through the appointments — with Pruitt in particular — that these guys are science deniers and there seems like there's very little reasoning with them," Pica said. "Friends of the Earth certainly is not looking to work with them on policy. ... You can't work on policy if there's not a basic understanding of what the heck's actually happening to the environment."

Jeremy Symons, associate vice president at the Environmental Defense Fund, said if anyone had doubts about the administration's direction, "nominating Scott Pruitt put them all to rest." The Pruitt nomination was a galvanizing moment for environmentalists, he said, noting that his was the first nomination for EPA administrator that EDF had publicly opposed.

During the Pruitt confirmation fight, environmentalists saw their messaging campaign as a partial win. Even though he was ultimately confirmed as EPA's boss, his ties to the fossil fuel industry and record of battling EPA in the courts were frequently mentioned in press reports. Pruitt was confirmed on a mostly party-line vote, 52-46, in the Republican-controlled Senate





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with the most recorded "no" votes of any EPA administrator in the history of the agency (E&E News PM, Feb. 21).

"The fact that Scott Pruitt is the most controversial EPA nominee and got approved by the narrowest of votes simply underscores the fact that this administration is in for a rough ride as they try to cripple the Environmental Protection Agency and what it does," Symons said.

Some environmentalists who fought the George W. Bush administration now say Bush looks good compared with the new president.

While greens point to some policy wins during the Bush administration, they note that they are not expecting to see much compromise with Trump.

Under Trump, "the scale and scope and the single-minded direction of moving backwards instead of forward, of unapologetically putting politics ahead of science, really is without precedent in any previous presidency, Democratic or Republican," Symons said. While there were fights over Bush policies, he said, there were also victories, notably positive steps on ocean policies.

During the Bush era, Pica said, "We didn't have to argue about the science, we had to argue about the policy. But we're now having to argue about the science and the basic facts that underlie regulation and underlie the legislative activities."

Trump and Pruitt have defended their early moves to roll back Obama-era regulations. Administration officials have pledged to preserve EPA's "core mission" of protecting public health and the environment, while scaling back some of EPA's work they deem overreaching.

"I believe that we as a nation can be both pro-energy and jobs and pro-environment," Pruitt told EPA staff after taking office. "We don't have to choose between the two."

#### **Battles in the media, courts, Congress**

Greens view keeping the public informed about the new administration's environmental actions as central to their strategy.

"Job No. 1 is making sure that the public knows what's going on, given all the distractions that are out there for all the other news of the day," Symons said.

Former Obama administration officials have come out in force to join the messaging war, too.



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Ex-EPA spokeswoman Liz Purchia started a public affairs shop aimed at firing back against the Trump administration. Her group is representing former EPA chief Gina McCarthy, environmental groups and other organizations. Purchia expects much of her firm's work to focus on state-level efforts (E&E Daily, March 7).

Among the major fights green groups and their allies are gearing up for: the confirmation battle over Trump's Supreme Court nominee, Neil Gorsuch; the upcoming epic brawl over the fiscal 2018 budget; lower-level nominees for agencies like EPA and the Interior Department; and expected executive orders to repeal President Obama's signature climate change rule and other environmental regulations.

Frustrated environmental advocates are taking their complaints to Congress.

The Sierra Club, for example, is "getting back to basics and doing grass-roots engagement really well," Brune said. "A classic act of call your member, visit with your member of Congress, go to the town hall hearings are now a lot more powerful when there are millions of people doing the same thing."

Brune said his group has seen a surge in dues-paying members as well as supporters who have attended rallies and taken action online since Trump's election.

Environmentalists are also beefing up their legal practices as they prepare to duke it out against Trump in the courts.

Lawyers for green groups intend to aggressively challenge Trump's policies while also defending key Obama-era regulations like the EPA Clean Power Plan rule to limit power plants' greenhouse gas emissions.

"We're hiring lawyers, we're coordinating our work across the movement," Brune said. "We intend to hold this administration accountable to the law and unraveling protections."

#### **The negotiators**

Although many environmental groups are planning to spend the next four years waging war from the outside, at least a few want seats at the table.

Take the Nature Conservancy, one of the world's largest conservation organizations. Earlier this month, that group sent one of its top officials to meet with Trump and other top administration officials at the White House to discuss priorities for infrastructure.



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Lynn Scarlett — global managing director for public policy at the conservation group and former No. 2 official at the Interior Department during the George W. Bush administration — made a pitch to the White House that infrastructure development and the environment can go hand in hand (Greenwire, March 9).

"Our view is there's a place for every kind of voice in the environmental conversation," Scarlett said, adding that different groups are better positioned to do different things. "We're bridge builders. And that means it's really important to keep a dialogue with everyone."

Scarlett noted that her group doesn't plan to keep quiet if it disagrees with Trump's actions. "We will stand up and be counted when we think bedrock protections or good rules are in play," she said.

Last week, for example, the Nature Conservancy issued a statement slamming the administration's proposed cuts to environmental spending, calling Trump's 2018 budget proposal a "misguided approach" and urging Congress to "embrace a budget that advances security, prosperity, and the environment."

Other conservation groups, including some focused on public lands, hunting and other sporting activities, are amenable to working with the new administration.

Some are cautiously optimistic about Trump's pick of former Montana Republican Rep. Ryan Zinke to lead Interior. Zinke, who bills himself as a Teddy Roosevelt fan and doesn't want to sell federal lands to states, is seen as a mixed bag for many conservation groups (Greenwire, Dec. 14, 2016).

Collin O'Mara, president and CEO of the National Wildlife Federation, praised Trump in December for selecting Zinke, calling the new Interior chief "a sportsman and proponent of keeping public lands public and investing in conservation."

O'Mara said in a recent interview that his group sees the crisis facing wildlife as so urgent that it cannot afford to take four years off. "We can't simply play defense," he said, noting that there are areas where there may be opportunities for compromise, like public lands and wildlife conservation.

"We will try to find those places," he said.



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NWF's plan for the Trump era, he said, is to be "deeply engaged in conversations when we do agree and being clear when we don't."

Land Tawney, executive director of Backcountry Hunters & Anglers, called Zinke "the best pick out of what had been put forth for secretary" of Interior.

His Montana-based group plans "to treat the administration just like anybody else," Tawney said. "Where we agree with what they're doing, we're going to applaud and ask them to do more." And they'll let the Trump team know when they disagree. "It'll be a mixed bag for sure."

The hunting group was in talks with the Trump transition team and is now engaging with Interior officials and the secretary himself, said Tawney, who previously worked with Zinke in Montana. "We've been texting back and forth," Tawney said.

Ultimately, deciding whether to engage with the administration is a question of, "Do you want to be part of the conversation at the dinner table, or do you want to be the dinner?" Tawney said.

"I think some people are ready to throw rocks no matter what," he said, "and we're going to look at the merits of everything that's being talked about and engage that way."

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